

Mov  
332.1  
Ut 12  
1923

LIBRARY

Brigham Young University

AMERICANA

Amer

HG

1501

.U837x

1923



BRIGHAM YOUNG UNIVERSITY



**3 1197 22389 4657**

# STATE OF UTAH,

Banking Corporations and Banks,  
 Liability of Directors, *etc.*  
 Publication Requirements  
 Regulating the Making of Small Loans  
 Federal Reserve System  
 Loan, Trust and Guaranty Associations  
 Organization and Supervision of Building and  
 Loan Associations



*H. R. Cannon*

*07*

*Wh. Laws, etc.*

EXTRACTS FROM  
 COMPILED LAWS OF UTAH, 1917,  
 AS AMENDED,  
 AND FROM  
 SESSION LAWS OF UTAH, 1919  
 SPECIAL SESSION LAWS OF UTAH, 1919  
 SESSION LAWS OF UTAH, 1921-23



Misc  
332.1  
2412  
1923

# STATE OF UTAH

---

Banking Corporations and Banks  
Liability of Directors  
Publication Requirements  
Regulating the Making of Small Loans  
Federal Reserve System  
Loan, Trust and Guaranty Associations  
Organization and Supervision of Building and  
Loan Associations



EXTRACTS FROM  
COMPILED LAWS OF UTAH, 1917,  
AS AMENDED,  
AND FROM  
SESSION LAWS OF UTAH, 1919  
SPECIAL SESSION LAWS OF UTAH, 1919  
SESSION LAWS OF UTAH, 1921-23

---

Additional copies will be mailed on receipt of 25 cents each

PUBLISHED BY  
STATE BANKING DEPARTMENT  
Salt Lake City, Utah  
APRIL, 1923

---

State Bank Commissioner  
SETH PIXTON

State Bank Examiners  
CLAYTON I. THATCHER  
FRANK W. PIPER

## STATE OF UTAH

### BANKING CORPORATIONS AND BANKS

Compiled Laws of Utah, 1917, Title 19, Chapter 6,  
as amended by  
Session Laws of Utah, 1919, Chapter 18.

(Passed March 13, 1919. Approved March 13, 1919. In effect May 12, 1919.)

#### STATE BANKING DEPARTMENT

971. **Commissioner—appointment—term—qualifications—bond—salary.** There is hereby created a State banking department. The chief officer of such department shall be the Bank Commissioner, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold his office for four years and until his successor shall be appointed and qualified, but shall be subject to removal at the pleasure of the Governor. No person shall be appointed who has not been a citizen of the State for at least two years prior to his appointment, and who has not had at least four years experience in banking. Before entering upon his duties, he shall qualify by taking and subscribing to the constitutional oath of office, and execute to the State a bond, to be approved by the State Board of Examiners, in the sum of \$10,000, with a surety company authorized to do business in this State as surety, conditioned for the faithful performance of his duties. The premiums on such bonds shall be paid by the State. Said oath and bond shall be filed with the Secretary of State. Said commissioner shall receive a salary of \$4,000 per annum, and his actual and necessary traveling expenses, payable quarterly as the salaries of other State officers.

972. **Id. Eligibility.** No person shall be appointed bank commissioner who is interested, either directly or indirectly, in any commercial bank, savings bank, or trust company in this state.

972x. **Commissioner to keep records.** The bank commissioner shall keep, as records of his office, proper books showing all acts, matters and things by him done under the provisions of this act and he shall quarterly certify under oath to the state treasurer and to the state auditor, total amount of receipts of state banking department for each current quarter and remit to the state treasurer all money received by the department.

972x1. **Annual report.** The department shall make on or before the 30th day of November, biennially, a report to the governor containing copy of the published abstract of the last report furnished by each bank, trust company, and building and loan association under the jurisdiction of the department and any other proceedings had or done by the department under this chapter showing generally the condition of the banking and

building and loan business of this state and such other matters in connection with the general banking business as may be of interest to the public with a detailed statement verified by oath of all money, fees, etc., received by it during the same period.

973. **Examiners—qualification—term—bond—salary.** The Governor, by and with the advice and consent of the Senate, shall also appoint, for the term of two years, one or more examiners, removable by him at will, who shall possess the same qualifications as the Bank Commissioner, and who shall qualify by subscribing to the constitutional oath of office and giving to the State a bond, to be approved by the State Board of Examiners, in the sum of \$5,000, with a surety company authorized to do business in this State as surety, conditioned for the faithful performance of his duties. The premiums on such bonds shall be paid by the State. Said oath and bond shall be filed with the Secretary of State. He shall receive a salary of \$3,600 per annum, payable quarterly, and his actual and necessary traveling expenses. Such examiner shall not be interested, directly or indirectly, in any bank in the State, either as director or stockholder, officer or employee. He shall perform such duties as are prescribed by this chapter, or that may be assigned him by the commissioner.

973x. **Disclosures—exceptions—penalty.** Neither the Bank Commissioner, or any examiner or other person connected with his office shall disclose any information obtained from any bank or trust company to any person not connected with the state banking department, except to federal, state or clearing house bank examiners, or to proper officials legally empowered to investigate criminal charges, or except as is otherwise provided by law. Every person who shall violate any provision of this section shall forfeit his office or employment, and shall also be guilty of a misdemeanor, and shall be punished accordingly.

973x1. **Prohibitions on officials.** It shall be unlawful for the Bank Commissioner or any examiner or employee of his office to borrow money from a bank or trust company under the jurisdiction of the state banking department. Every person who shall violate any provision of this Section shall forfeit his office or employment, and shall also be guilty of a misdemeanor, and shall be punished accordingly.

974. **Institutions subject to examination.** All banks organized under the laws of this state, and all private banks doing business within the state, all loan, trust, and guaranty associations, and all building and loan associations doing business within the state, shall be subject to examination by the commissioner or examiner.

975. **Duties of commissioner and examiner.** The bank commissioner, or the examiner, shall visit and examine every savings bank and every building and loan association at least once in each year, and every bank other than savings banks, at least twice in each year. At every such



examination careful inquiry shall be made as to the condition and resources of the institution, the mode of conducting and managing its affairs, the official action of its directors, the investment and disposition of its funds; whether or not it is violating any of the provisions of law relating to banking corporations and banks, and as to such other matter as the commissioner may prescribe.

975x. **Commissioner may require change in books and records.** If upon examination of any bank it shall appear to the bank commissioner that such bank does not keep books and accounts in such a manner as to enable him or his examiners to readily ascertain the true condition of such bank, he shall have power to require the officers of such bank or any of them to open and keep a standard set of bank books including a general ledger and balance book for the purpose of keeping accurate and convenient records of the transactions and accounts of such bank. Any bank that refuses or neglects, after 60 days notice, to open and keep such books or accounts as may be prescribed by the bank commissioner shall be subject to penalty of \$10.00 for each day it neglects or fails to open and keep such books and accounts after receiving written notice from the bank commissioner. Such penalty may be collected in the manner prescribed in Section 1010.

976. **Id. Power to administer oath.** The bank commissioner, or bank examiner, in the performance of his duties, may examine on oath, which he is hereby empowered to administer, any of the bank officers, employes, proprietors, or other persons, and may compel the attendance of witnesses and the production of books and papers of the bank, association, or corporation. Upon the refusal of any such bank, association, or corporation to produce its books or papers, the commissioner or examiner may apply to the district court, which is hereby empowered to compel the attendance of such witnesses and the production of such books and papers.

977. **Id. Relations with national bank examiner.** Where state and national banks are closely affiliated the commissioner or examiner may disclose to the national bank examiner the true condition of the allied state bank, provided the national bank examiner is permitted to and will, upon request of the commissioner or bank examiner, disclose the same information respecting the allied national bank.

978. **Examination fees—schedule—payments.** For each examination, as provided by this chapter, the bank examined shall pay the commissioner or examiner making the examination, to be by the commissioner deposited in the state treasury to the credit of the general fund, a fee as follows: When the aggregate assets of the institution are \$100,000 or less, \$30; when more than \$100,000 and not to exceed \$300,000, \$40; when more than \$300,000, but not to exceed \$500,000, \$50; when more than \$500,000, but not to exceed \$1,000,000, \$70; when more than \$1,000,000, but not to exceed \$3,000,000, \$85; when more than \$3,000,000, but not to

exceed \$7,000,000, \$160; when more than \$7,000,000, but not to exceed \$12,000,000, \$250; when more than \$12,000,000, but not to exceed \$18,000,000, \$350; when more than \$18,000,000, \$450.

A fee of \$20 per day for each day required to make the examination of building and loan associations shall be charged, which fee shall be turned in to the state treasury to the credit of the general fund. The company so examined shall also be required to pay the necessary traveling expenses of the Bank Commissioner or examiner to and from the place of examination.

979. (374.) **Commercial and savings banks.** Corporations to conduct commercial or savings banks or banks having departments for both such classes of business may be formed under the provisions of chap. 1, of title 19, Compiled Laws of Utah, 1917 (Sections 860-899),\* respecting corporations for pecuniary profit, and all the rights, privileges, and powers, and all the duties and obligations, of such corporations and the officers and stockholders thereof shall be as provided in said chapter, except as in this chapter otherwise provided; and whenever it may be necessary and lawful to assess the full paid stock of any banking corporation such assessment shall be made and enforced as provided in the articles or by-laws, or if not provided therein, in the manner prescribed in chap. 2 of title 19, Compiled Laws of Utah, 1917 (Sections 900-919).

980. (375.) **Capital stock.** In no case shall the subscribed capital stock of any bank be less than \$20,000, and in cities having from 5000 to 25,000 inhabitants not less than \$50,000, and in cities having from 25,000 to 50,000 inhabitants not less than \$75,000, and in cities having more than 50,000 inhabitants not less than \$100,000; nor shall the certificate of incorporation issue until it shall appear to the secretary of state by affidavit of at least three of the incorporators that the proposed corporation has the requisite amount of subscribed capital stock and that at least fifty per cent of the capital stock of the corporation has been paid in cash; nor shall the secretary of state issue his certificate of amendment to any banking corporation until it shall be made to appear to him by affidavit that at least twenty-five per cent of the increased capital has actually been paid in cash.

981. (376.) **Commercial bank defined.** The term commercial bank, when used in this chapter, means any bank authorized by law to receive deposits of money, deal in commercial paper, or to make loans thereon, and to lend money on real or personal property, and to discount bills, notes, or other commercial paper, and to buy and sell securities, gold and silver bullion or foreign currency or bills of exchange.

981x. **Commercial bank as assignee, etc.** Commercial banks, and Savings banks, having a paid up capital and surplus of not less than \$100,000.00 upon the issuance to the particular bank of a permit by the bank commissioner, shall have authority and power: To act as assignees,

agents, receivers, guardians of the estates of minors and incompetent persons, executors and administrators, registrars of stock and bonds, and to execute trusts of every description not inconsistent with law.

981x1. **Commercial bank—capital stock held.** Whenever any such bank shall accept an appointment as assignee, agent, receiver, guardian, executor or administrator, or be directed to execute any trust, the capital of the said bank shall be held as security for the faithful performance of such duties, and be held liable for any default whatever, and no bond shall be required of it for the faithful performance of such trust.

981x2. **Oath of officer is oath of bank.** The oath or affidavit of any officer of such bank, for and on its behalf shall be deemed to be the oath or affidavit of such bank.

982. **Savings bank defined.** The term savings bank, when used in this chapter, means a bank organized for the purpose of accumulating and loaning its funds; receiving deposits of money; loaning, investing, and collecting the same with interest and repaying depositors with or without interest and having power to invest said funds in such property, securities, and obligations as may be prescribed by its board of directors, and to pay a stipulated rate of interest on deposits made for a stated period or upon special terms.

983. **Unpaid subscriptions. Reduction of capital.** The unpaid subscriptions of the stockholders of any bank shall be paid in cash in instalments of not less than 10 per cent per month until the full amount of the subscribed capital stock shall be fully paid. Whenever any shareholder or his assignee fails to pay any instalment of stock when the same is required as provided above, the directors of such bank may sell at public auction, after giving two weeks' previous notice of such sale in a newspaper published in the county where the bank is located, or, if no newspaper be published therein, then in any newspaper having general circulation in such county, so much of the stock of such delinquent shareholder as may be necessary to pay the amount due thereon, with the expense of advertising the sale. The sale shall be made to the highest bidder, and the excess, if any, shall be paid to the delinquent shareholder. If such stock shall not bring the amount due thereon, with the costs of advertising the sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold, as the board of directors may order, within six months from the date of forfeiture, and if not sold shall be canceled and deducted from the capital stock of the association; if such cancellation and reduction shall reduce the capital of the association below the minimum required by law, the capital stock shall, within thirty days from the date of such cancellation, be increased to the required amount, in default of which a receiver may be appointed, upon the application of the attorney-general, in the manner provided by law, to close up the business of the bank.

984. **Loans to officers—procedure—records.** No officer or director of any banking corporation organized or existing under the laws of Utah shall borrow money from such bank to exceed 15 per cent of its capital stock and surplus. The office of any officer who shall act in contravention of the provisions of this section shall thereupon become vacant and the bank commissioner shall take charge thereof; and any loan such officer shall have made in contravention hereof shall become immediately due and payable; provided, that no bank shall loan any of its funds to any of its officers or directors unless he furnishes security in at least double the amount of the loan made; provided, further, that such loan shall first have been approved by a two-thirds vote of its board of directors at a meeting thereof, on which vote the borrowing officer or director shall not participate; and a record of the approval of such loan shall be made in the minutes of the bank.

985. (380.) **Loans to persons, corporations, etc.** The total liability to any banking corporation of any person or any one company, corporation, or firm, for money borrowed, shall at no time exceed fifteen per cent of the amount of the capital stock paid in and of the surplus earned and set aside as a surplus fund of such bank; but the discount of bills of exchange drawn in good faith against existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be construed as borrowed money. Deposits of commercial banks, with commercial banks, or the commercial department of banks having commercial and savings departments, on open accounts to facilitate business transactions shall be permitted and shall not be construed as loans.

985x. **Shares deemed personal property.** The shares of stock of incorporated state banks shall be deemed personal property and shall be transferred on the books of the bank in such manner as the by-laws may provide and as by law required; and no transfer of stock shall be valid while the bank is under notice from the State Bank Commissioner to make good any impairment of its capital stock, nor until such impairment shall have been made good.

985x1. **Stock not to be accepted as collateral or purchased.** No state bank shall accept as collateral or be the purchaser of its own capital stock, except in cases where the taking of such collateral or such purchase, shall be necessary to prevent loss upon a debt previously contracted in good faith. After ownership has passed to the bank as herein provided, such stock shall be sold by the bank within twelve months from the date of acquirement or ownership; provided, however, that the pledge shall have six months time in which to redeem said collateral; provided further, that in no case shall the stock so held be in excess of 10 per cent of the capital and surplus of such bank.

986. **Stock in other corporations.** Any bank or loan, trust, and guaranty company or association, organized under the laws of the state

of Utah, may purchase, own, hold, and sell or otherwise dispose of any of the shares of the capital stock of any other bank, loan, trust, and guaranty association or other corporation; *provided*, such purchase shall be authorized by the executive committee and approved by the board of directors; and in case the purchase is of stock in any other banking corporation the approval of said purchase must also be had from the state bank commissioner; and *provided, further*, that nothing in this section shall be so construed as to permit the establishment, maintenance, or control of any branch bank or loan, trust, or guaranty company in the state. All acts or parts of acts in conflict with this section are hereby repealed to the extent of such conflict.

987. (381.) **Minors.** Minors may in their own names make and draw deposits and draw dividends and give valid receipts therefor.

988. (382.) **Liability of stockholders.** The stockholders in every corporation and joint stock association for banking purposes, in addition to the amount of the capital stock subscribed and fully paid by them, shall be individually responsible for an additional amount equal to the amount of their stock in such corporation, for all debts and liabilities of every kind.

989. (383.) **Amendments.** No change shall be made in the articles of association of any banking corporation by which the rights, remedies, or securities of existing creditors of the association shall be impaired.

990. **Borrowing by savings banks.** No savings bank shall borrow money, or pledge or hypothecate any of its securities, except to meet the immediate demands of its own depositors, and then only in pursuance of a resolution adopted by a vote of a majority of its board of directors or executive committee duly entered upon their minutes, wherein shall be recorded the ayes and nays upon each vote; *provided, however*, that savings banks may borrow the public moneys of the state, counties, cities, and county school districts, and towns and receive such public moneys on deposit.

991. **Certificates of deposit issued by savings banks.** Savings banks may issue general certificates of deposit, which are transferable, as in other cases, by endorsement and delivery; may issue, when requested by the depositor, special certificates acknowledging the deposit by the person therein named of a specified sum of money, and expressly providing on the face of such certificate that the sum so deposited and therein named may be transferred only on the books of the bank; payment thereafter made by the bank to the depositor named in such certificate, or to his assignee named upon the books of the bank, or, in case of death, to the legal representative of such depositor, of the sum for which such special certificate was issued, shall discharge the bank from all further liability on account of the money so paid.

992. **Withdrawal of savings deposits. Limitation on loans.** Savings banks may prescribe by their by-laws, or by contract with depositors, the time and conditions on which repayment is to be made to depositors, except as in this chapter otherwise prohibited; but whenever there is any call by depositors for repayment of a greater amount than the bank may have disposable for that purpose, the directors or officers thereof must not make any new loans or investments of the funds of the depositors or of earnings thereof until such excess of call has ceased.

993. **Deposits by savings banks with commercial banks.** Deposits by savings banks with commercial banks on open account to facilitate business transactions, as provided in this chapter, shall be permitted, and shall not be construed as loans.

994. **Private or partnership banks prohibited.** The establishing or maintenance of private or partnership banks is hereby expressly prohibited; *provided*, that all such banks now in operation shall retire from business or incorporate under the provisions of this chapter within a period of five years from and after the approval of this chapter. (Approved March 30, 1911.)

995. **Foreign banks.** No foreign corporation shall transact a banking business in this state without first complying with all the requirements of the laws of this state relating to banks, as defined in this chapter, and without having the capital paid up in this state, as required by this chapter and without having complied with the other laws of this state relating to foreign corporations.

996. (378.) **Lawful reserve. Commercial banks.** Commercial banks shall at all times have on hand in lawful money of the United States an amount equal to fifteen per cent of the aggregate amount of their deposits and demand liabilities. The amount thus to be kept on hand shall be called its lawful money reserve. Not less than one-eighth of such lawful money reserve shall consist of lawful money of the United States on hand, and the remainder of such lawful money reserve in credits in solvent banks other than savings banks; *provided*, that in cities having a population of 50,000 or more a lawful money reserve of not less than twenty per cent shall be maintained. If the lawful money reserve of any bank shall fall below the amount required by this section, such bank shall not increase its loans or investments until its lawful money reserve has been restored, but may discount bills of exchange payable on sight. The bank commissioners\* shall notify any bank, whose lawful money reserve shall be below the amount herein required, to make good such reserve, and, if it shall fail for thirty days thereafter to make good such reserve, such bank may be deemed insolvent and may be proceeded against under the provisions of this chapter.

997. **Id. Savings banks.** Savings banks must carry in cash, or its equivalent, an amount equal to ten per cent of its deposit liabilities, of

which at least one-fourth must be in lawful money of the United States and the remainder in credits in solvent banks other than savings banks. The amount thus carried shall be called the lawful money reserve. No new loans shall be made during any impairment of the lawful money reserve.

998. **Id. Banks having commercial and savings departments.** Banks having both commercial and savings departments shall maintain a lawful money reserve for each department as provided in the two preceding sections.

999. **Directors. Eligibility.** No person shall be eligible for election as a director of a bank unless he is a stockholder of the bank, owning, in his own right, shares thereof of the par value of at least \$200, provided that no person shall be eligible for election as a director of a bank situated in cities of the first and the second class, unless he is a stockholder of the bank, owning, in his own right, shares thereof of the par value of \$500; and every person elected to be a director, who, after such election, shall cease to be the owner, in his own right, of the amount of stock aforesaid, shall then cease to be a director of the bank, and his office shall then become vacant.

1000. **Id. Oath of office.** Each director of a bank, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such bank, and will not knowingly violate or wilfully permit to be violated any of the provisions of law applicable to such bank, and that he is the owner, in good faith and in his own right, of the shares of stock of the par value required by Section 999, subscribed by him or standing in his name on the books of the bank, and that the same is not hypothecated or in any way pledged as security for any loan or debt; and, in case of re-election or re-appointment, after July 1, 1912, such oath shall state that such stock was not hypothecated or in any way pledged as security for any loan or debt during his previous term. Such oath shall be subscribed by the director and shall be immediately filed in the office of the county clerk, as required by law.

1000x. **Removal of incompetent or dishonest official.** If bank commissioner finds that any officer or employee of any bank or trust company or institution under his supervision is dishonest, reckless, or incompetent, or fails to perform any duty of his office, he shall notify the board of directors in writing of his objections to such officer or employee and said board shall, within twenty days after receipt of notification, meet and consider such objections, first giving notice to bank commissioner of time and place of meeting. If board finds objections well founded, such officer or employee shall be immediately removed.

1001. **Directors' monthly meetings—cashier's report.** The board of directors of every incorporated state bank shall hold at least one regular meeting every calendar month. At every such meeting the cashier shall

submit a detailed report, showing every loan and investment made during the preceding month or since the last report, also the aggregate of the then existing liability, direct or contingent, to such bank of every officer and director thereof. The board of directors shall pass upon such report and make same a part of the record of such meeting and such record shall show their approval or disapproval of same and be subscribed to by every director present at such meeting.

1002. (388.) **Id. Directors—annual examinations—report.** It shall be the duty of the board of directors of every bank to examine, or cause to be examined, fully into the books, papers, and affairs of the bank of which they are directors, and particularly into the loans, discounts, and overdrafts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any given, in connection therewith, and into such other matters as the bank commissioner or bank examiner may require, such examinations to be made at least once a year and at such other times as the bank commissioner may require. No such subsequent yearly examination shall be made within three months of the next preceding yearly examination. Within ten days after the completion of such examination, a report in writing thereof shall be made to the board of directors of such bank and placed on file with the records of said bank, and shall be subject to examination by the bank commissioner or bank examiner.

1003. (389.) **What reports shall contain.** Such reports shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets or additions to liabilities which such directors, or committee or examiner, after such examination, may recommend. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and if not, a statement of that fact, and its actual value, as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank. If the directors of such bank shall wilfully fail to make, or cause to be made, and file such report of examination in the manner and within the time specified, the directors of such bank shall be guilty of a misdemeanor.

1004. **Dividends—surplus fund.** The board of directors of any bank may declare a dividend of so much of the net profits of the bank, after providing for all expenses, losses, interest, and taxes accrued or due from said bank, as they shall judge expedient; but before any such dividend is declared not less than twenty per cent of the net profits of the bank for the preceding half year, or for such period as is covered by dividend, shall



be carried to a surplus fund until such surplus shall amount to fifty per cent of its capital stock.

**1004x. Losses charged to surplus fund—when.** Any losses sustained by a state bank, in excess of its undivided profits, shall be charged to its surplus fund; provided, that its surplus fund shall thereafter be reimbursed from the earnings and no dividends shall thereafter be declared or paid by any such bank in excess of one-half of its net earnings until said surplus fund shall be fully restored to its former amount, or an amount equal to 50 per cent of its paid-up capital.

**1004x1. Report of earnings to be made semi-annually.** On or before the 10th day of January and July in every year, every state bank shall submit to the bank commissioner a report of earnings and dividends for the six months next preceding; such report shall be made in the form prescribed by the bank commissioner and shall show all losses sustained, expenses and taxes paid, gross earnings and profits, losses recovered since last report and all amounts carried to surplus and dividends paid.

**1005. Branch banks prohibited.** The business of every banking institution shall be conducted only at its banking house, and no bank in this state or any loan, trust, or guaranty company or trust company conducting a banking business, or any officer, director, or agent thereof, shall open, establish, or maintain any branch bank or office, and shall receive deposits and pay checks only at its banking house; *provided*, that all branch banks or offices in operation at the time of the approval of this chapter shall be closed and discontinued within one year from the date this chapter goes into effect.

Any bank or officer thereof violating any of the provisions of this section is guilty of a misdemeanor.

**1006. Borrowing restricted—cannot borrow within state on certificates of deposit—overdrafts.** All certificates, or evidences of deposit made by the proper officers of any bank, shall be as effectual to bind any bank as if made under the common seal thereof; but said bank shall not issue any bill, note, or certificate intended to circulate as money and no such bank shall issue post notes. No bank or bank officer shall give preference to any depositor or creditor by pledging the assets of the bank as security; provided, that commercial banks may borrow money for temporary purposes and may pledge assets of the bank not exceeding 50 per cent in excess of the amount borrowed as collateral security therefore; provided, further that whenever it shall appear that a bank is borrowing habitually for the purpose of reloaning, the bank commissioner may require such bank to pay off such borrowed money. Nothing herein contained shall prevent any bank from rediscounting in good faith and indorsing any of its negotiable notes. It shall be unlawful for any bank to issue its certificate of deposit for the purpose of borrowing money from any bank within the state. Neither shall any bank make partial payments upon certificates of deposit.

In no case shall an overdraft of more than 90 days standing be allowed as an asset of the bank unless amply secured. Any bank borrowing money or rediscounting any of its notes shall at all times show on its books and in its reports the amount of such borrowed money or rediscounts. No officer of any bank shall issue the note of such bank for money borrowed or rediscount any note, except when authorized by resolution of the board of directors of such bank.

1007x. **Impaired capital—commissioner to give notice for assessment—failure of stockholder to pay—commissioner may take possession.** Every bank whose capital shall have become impaired by loss or otherwise, shall within ninety days after receiving notice from the bank commissioner cause the deficiency in such capital to be paid in by assessment upon the stockholders pro rata for the amount of capital stock held by each. If any stockholder of such bank neglects or refuses to pay such assessment as herein provided, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such stockholder or stockholders to be sold at public auction upon such notice as the law requires to make good the deficiency and the balance, if any, shall be returned to such delinquent shareholder or shareholders. If any bank shall fail to cause to be paid in such deficiency in its capital stock for ninety days after receiving such notice from the bank commissioner, he may forthwith take possession of the property and business of such bank until its affairs be finally liquidated as provided by law.

1008. **Reorganization.** Whenever arrangements shall be made by any such bank or the stockholders thereof by reorganization or otherwise, to the satisfaction of the bank commissioner, to pay all creditors thereof, aside from the stockholders, and to make good the impairment of the capital stock in all particulars, and to pay the expenses of the receivership, if any have accrued, such facts shall be presented to the court, and the court may order the property to be turned over to the bank or to such stockholders, and shall discharge the receiver.

1009. **Reports.** Every banking corporation, private banker, or partnership bank, domestic or foreign, transacting a banking business in this state, shall make to the bank commissioner not less than four reports during each year, according to the form which may be prescribed by him, which report shall be verified, in the case of banking corporations, by the oath or affirmation of the president or cashier and attested by at least three directors, and, in the case of private or partnership banks, by the oath or affirmation of the proprietor, a partner, a member, or by the business manager. Such report shall state the condition of the bank at the close of business on any past day, within three months before the date of the call specified by the bank commissioner, and shall be transmitted to his office within five days after the receipt of the request therefor; and a copy thereof, duly certified by the bank commissioner, shall be published by the bank making the same, in some newspaper\* having general circulation in the county where such bank is situated, proof of such publication to be filed

in the office of the bank commissioner within thirty days from the time of the receipt of the copy certified by the bank commissioner. The fee for filing and certifying each quarterly report of each bank shall be \$5.00. The bank commissioner shall have power to call for special reports from any such banking corporation, private or partnership banks whenever in his judgment the same shall be necessary.

1009x1. **False entries or statements. Deemed guilty of felony.** Any officer, director, owner or employee of any bank in this state who shall willfully and knowingly subscribe to or cause to be made any false statement or report to the bank commissioner or any false entry in the books or accounts of any bank, or shall knowingly subscribe to or exhibit false papers with the intent to deceive any person or persons authorized to examine into the affairs of such bank, or who shall knowingly state or publish any false report or statement of such bank, shall be deemed guilty of felony and, upon conviction thereof, shall be punished by a fine of not less than \$1,000.00 nor more than \$5,000.00 or by imprisonment in the state penitentiary not less than one year nor more than ten years, or by both fine and imprisonment, in the discretion of the court.

1009x2. **Reports. Public when.** The bank commissioner shall receive and place on file in his office all reports required by this act. None of such reports except the published statement shall be deemed public records or be opened for public inspection without authorization from the bank; provided, that the bank commissioner may furnish to the federal reserve bank and its examiners all reports and information pertaining to the condition of state bank members of the federal reserve system. The bank commissioner shall prescribe the forms for all reports required by this act and may change same at pleasure; and he shall furnish without charge upon request of banks coming under his supervision, any blank form necessary and required by this act.

1010. **Failure to report.** Every banking corporation, private or partnership bank which shall fail or neglect to make any report required by the provisions of this chapter shall be subject to a penalty of \$50 for each day's delay in transmitting such report, to be recovered by and for the state in a civil action.

1011. **Name "bank" or "bankers," etc., forbidden—except.** No person, firm, company, co-partnership, or corporation, not subject to the supervision of the bank commissioner, other than a national bank, shall make use of any office sign in the place where such business is transacted having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank or trust company, or that deposits are received there, or that payments are made on check, or that any other form of banking or trust company business is transacted; nor shall such person or persons, firm, company, co-partnership, or corporation make use of or circulate any letter heads, bill heads, blank notes, blank receipts, certificates, or circulars, or any printed or written, or

partly written and partly printed, paper whatever, having thereon any artificial or corporate name, or other word or words indicating that such business is the business of a bank, savings bank, or trust company; nor shall such person or institution transact business under any name which contains the words "bank," "banker," "banking," "savings bank," "savings," "trust," "trustee" or "trust company." Every person, firm, company, co-partnership, or officer of a corporation violating the provisions of this section shall be guilty of a misdemeanor.

1012. **Id.** Any individual, firm, or partnership, company, corporation, or foreign bank holding itself out to the public as receiving money on deposit, whether evidenced by certificate, promissory note, or otherwise, shall be considered as doing a banking business and subject to the provisions of this chapter as to such banking business.

1013. **Conversion of national to state bank.** Whenever any national bank, authorized to dissolve, has taken the necessary steps for that purpose, a majority of its directors upon authority in writing of the owners of two-thirds of the capital stock, and the approval of the bank commissioner, may reorganize under the provisions of this chapter, and in addition to the other requirements of law the articles of incorporation of such bank shall state the authority derived from the stockholders of such national bank, and after full compliance with the other provisions of this chapter relating to the organization of corporate banks, it shall become a legal state bank, and thereupon the assets, real and personal, of said dissolved national bank, subject to its liabilities not liquidated under the federal law, shall vest in and become the property of such state bank.

1014. **Reorganization of state bank as national bank.** Any bank organized under this chapter may reorganize under the laws of the United States as a national bank. As soon as such bank shall have obtained the certificate from the comptroller of the currency authorizing it to commence business under the United States banking law, such reorganized bank shall take and hold all of the assets, real and personal, of such bank, organized under this chapter, subject to all liabilities existing against such bank organized under this chapter at the date of such reorganization, and shall immediately notify the bank commissioner of such reorganization and transfer.

1015. **National banks.** This chapter does not apply to banks organized under the national banking act of the United States.

1016. **Construction.** All the general powers and privileges, as well as the general restrictions and limitations provided in this chapter, and applied to the corporations to be organized under and regulated by this chapter, by the general designation of banks, shall be understood and construed to include commercial banks, savings banks, and those combining both branches of business, also private and partnership banks.

**1017. Articles of association to be approved by bank commissioner.** The secretary of state shall not issue a certificate of incorporation to any bank, authorizing it to do business in this state, until its articles of association or agreement shall have been approved by the bank commissioner; *provided*, that the bank commission may withhold his approval if he finds that the incorporators are not reliable and of good standing in their community, or are professional bank incorporators, or if the locality where the proposed bank is to operate is well supplied with banks, or if the incorporators have not fully complied with the provisions of this chapter; *provided, further*, that all persons feeling themselves aggrieved by the action, decision, or ruling of the bank commissioner may appeal to the State board of examiners, and the decision of said board shall be final.

**1017x. Certification of checks.** It shall be unlawful for any officer, employee or agent of any bank doing business under the laws of this State to certify any check drawn upon the bank unless the person, firm or corporation drawing such check has on deposit with the bank at the time such check is certified an amount of money equal to the amount specified in such check.

**1017x1. Receiving deposits when bank is insolvent.** No bank shall accept or receive on deposit, with or without interest, any money, bank bills or notes, or United States treasury notes, gold or silver certificates, or currency, or other notes, bills, checks or drafts, when such bank is insolvent, as determined by the Bank Commissioner; and any officer, agent or employee of any bank who shall knowingly violate the provisions of this Section, or be accessory to or permit or connive at the receiving or accepting of any such deposit, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$5,000.00, or by imprisonment in the state prison not exceeding five years, or by both such fine and imprisonment.

**1017x2. Active officers and employees to give surety company bonds.** The board of directors of every corporation engaged in the business of banking under the laws of this State shall require its active officers and employees and such other officers as the board may designate, to give a surety company bond, in such sum as the board shall specify and the Bank Commissioner shall approve, conditioned for the faithful and honest discharge of his duties and for the faithful application of all moneys, funds and valuables which shall come into his possession or under his control.

**1017x3. False swearing—penalty.** Every officer or employee of a bank required by law to take an oath or affirmation who shall wilfully swear or affirm falsely, shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished as provided by the laws of this State in case of perjury.

**1017x4. Neglect of duty by Commissioner or Examiners—penalty.** Any Bank Commissioner or Bank Examiner who shall wilfully neglect to per-

form any duty provided for by law, or who shall knowingly or wilfully permit the violation of any of the provisions of law for a period of ninety days, by any bank doing business under the laws of this State, or who shall knowingly or wilfully make any false statement concerning any bank, or who shall be guilty of any misconduct or corruption in office, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be punished accordingly, and in addition thereto shall be removed from office by the Governor.

1017x5. **Penalty for libelous statement.** Any person who wilfully and knowingly makes or circulates or transmits to another or others any statement or rumor written, printed or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank, or who knowingly counsels, aids, procures or induces another to state, transmit or circulate any such statement or rumor, is guilty of a misdemeanor punishable by fine of not more than \$1,000, or by imprisonment for not more than one year or both.

1020. **Disposition of deposits.** When a deposit has been made, or shall hereafter be made, in any bank, savings bank, banking institution, or trust company transacting business in this state, in the names of two persons, and payable to either or the survivor, such deposit, or any part thereof, or any interest or dividend thereon, may be paid to either of said persons whether the other be living or not; and the receipt or acquittance of the person so paid shall be valid and sufficient release and discharge to the bank for any payment so made.

1020x. **Bad debts defined.** All demand and matured debts due to any state bank, on which interest has not been paid for a period of over twelve months, unless well secured and in the process of collection, shall be considered bad debts and shall be charged off to profit and loss account, upon instruction of the bank commissioner.

1020x1. **May purchase, lease and hold real estate for what purposes.** Any person, firm, or corporation doing a banking business in this state may purchase, hold and convey real estate for the following purposes and no other:

1. Such real estate as shall be necessary in which to transact the business of any such bank, including its banking offices and other premises in the same buildings to rent as a source of income, but which shall not exceed in cost to such bank 50 per cent of its paid-in capital and surplus, except that whenever any such bank shall cease to use such real estate and improvements thereon for its principal place of business or for banking purposes, it shall, within seven years from the date of vacation of such premises sell the same or cease to carry it as an asset.

2. Such real estate as shall be purchased by or conveyed to such bank in satisfaction of or on account of debts previously contracted in the course of its business.

3. Such real estate purchased at execution sale or decree under securities held by it, and any real estate acquired as provided in said subdivision, shall be sold within seven years after title thereto is acquired. If any real estate is not sold within the time herein limited, it shall not thereafter be carried as an asset of the bank.

Any bank hereafter acquiring any real estate in any manner other than provided in this section shall immediately upon receiving notice from the bank commissioner charge same to profit and loss; and when such loss impairs the capital of such bank such impairment shall be made good in the manner as provided by law. This section shall not apply to real estate purchased with funds other than the capital and resources of such banking business, nor to real estate held in trust.

**1020x2. Attorney General to conduct actions.** The attorney general of the state shall conduct all actions, suits, or proceedings begun by the bank commissioner under the authority of this act and may call to his assistance the county attorney of the county in which such action, suit or proceedings are conducted, and it shall be the duty of the county attorney to render such assistance as the attorney general may require.

**1020x3. County attorney to aid.** It shall be the duty of the bank commissioner to inform the county attorney of the county in which the bank is located of any violation of any of the provisions of this act, which constitutes a misdemeanor or felony, by any officer, director, owner or employee of any bank which shall come to his notice; and, upon receipt of such information the county attorney shall institute proceedings to enforce the provisions of law.

**1020x4. Fees to directors, officers, and employees prohibited.** Other than the usual salary or director's fee paid to any officer, director, employee, or attorney of a state bank, and other than a reasonable fee paid by said bank to such officer, director, employee, or attorney for services rendered to such bank, no officer, director, employee, or attorney of a state bank shall be a beneficiary of or receive directly or indirectly, any fee, commission, gift, or other consideration for or in connection with any transaction or business of the bank; provided however, that nothing in this act contained shall be construed to prohibit a director, officer, employee, or attorney from receiving the same rate of interest paid to other depositors for similar deposits made with such bank; and provided, further, that notes, drafts, bills of exchange, or other evidences of debt executed or indorsed by directors or attorneys of a state bank may be discounted with such state bank on the same terms and conditions as other notes, drafts, bills of exchange, or evidences of debt upon the affirmative vote or written assent of at least a majority of the members of the board of directors of such member bank, and provided that any such officer, director, employee or attorney may act as the agent for any fire, life or other insurance company authorized by the authorities of the state by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed

upon between the said association and the insurance company for which it may act as agent; provided, however, that no such bank shall in any case guarantee, or assume the payment of any premium on insurance policies issued through its agency by its principal. And provided further, that the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

---

### ISSUING CHECKS WITHOUT SUFFICIENT FUNDS FOR PAYMENT

Compiled Laws of Utah, 1917, Title 119, Penal Code, Chapter 50.

8347. **Issuing fraudulent check unlawful.** Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time of such making, drawing, uttering, or delivery that the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft, or order in full upon its presentation, shall be guilty of a misdemeanor. The making, drawing, uttering or delivering of such check, draft, or order as aforesaid shall be prima facie evidence of intent to defraud. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

---

### AGENT OF INSOLVENT BANK MUST NOT RECEIVE DEPOSITS

Compiled Laws of Utah, 1917, Title 119, Penal Code, Chapter 52.

8369. (4412.) **Agent of insolvent bank receiving deposits.** Every officer, agent, teller, or clerk of any bank, and every individual banker, or agent, teller, or clerk of any individual banker, who receives any deposits, knowing that such bank or banker is insolvent, is guilty of a felony.

---

### QUALIFICATIONS OF NEWSPAPERS FOR LEGAL PUBLICATIONS

Session Laws of Utah, 1919, Chapter 44.

(Passed March 1, 1919. Approved March 8, 1919. In effect May 12, 1919.)

**An Act designating what newspapers shall be qualified to do legal printing in the State of Utah, and providing a maximum rate for same.**

*Be it enacted by the Legislature of the State of Utah:*

Section 1. **Requisites—proviso.** Before any newspaper published in the State of Utah shall be qualified to publish any legal notice, or any matter required by law to be printed or published in some newspaper in this State, or any public notice for any county, city or other municipality within this State, such newspaper must have a bonafide subscription list of not less than 200 subscribers in the State, provided further that in counties in which no newspaper is published, any notices required by law to



be published may be published in any newspaper printed in the State having a general circulation in said county.

**Sec. 2. Rates.** A maximum rate of 10 cents per line is hereby established in all cities and towns having a population under 25,000 on the basis of an 8 point 13-em line. Bids on all legal county printing shall be called for as provided in Section 1425, Compiled Laws of Utah, 1917.

Approved March 8, 1919.

---

### LIABILITY OF DIRECTORS

Compiled Laws of Utah, 1917, Title 119, Penal Code, Chapter 52.

8375. (4418.) **Director presumed to have knowledge.** Every director of a corporation or joint stock association is deemed to possess such a knowledge of the affairs of his corporation as to enable him to determine whether any act, proceeding, or omission of its directors is a violation of this chapter.

8376. (4419.) **Concurrence of director presumed if present.** Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceeding, or omission of such directors in violation of this chapter occurs, is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

8377. (4420.) **When assent presumed if director absent.** Every director of a corporation or joint stock association, although not present at a meeting of the directors at which any act, proceeding, or omission of such directors in violation of this chapter occurs, is deemed to have concurred therein, if the facts constituting such violation appear on the records or minutes of the proceedings of the board of directors, and he remains a director of the same company for six months thereafter, and does not within that time cause, or in writing require, his dissent from such illegality to be entered in the minutes of the directors.

---

### FRAUD OR MISCONDUCT OF DIRECTOR, OFFICER OR AGENT, A FELONY

See Compiled Laws of Utah, 1917, Title 119, Penal Code, Chapter 52, § 8370.

---

### MAKING OF FALSE REPORTS, OR CONCURRING IN SAME, BY DIRECTOR, OFFICER OR AGENT, A MISDEMEANOR

See Compiled Laws of Utah, 1917, Title 119, Penal Code, Chapter 52, § 8371.

**REGULATING THE MAKING OF SMALL LOANS**

Compiled Laws of Utah, 1917, Title 81, Chapter 2.

4380. **Licenses required. What constitutes a small loan.** Except as hereafter provided, every person, firm, corporation, or association engaged or seeking to engage in this state in the business of loaning money in sums of \$300 or less shall procure a license to conduct such business from the bank commissioner. When an application for a loan or for an indorsement or guarantee or for the purchase of a note is made by any person within this state, and the money is advanced or the indorsement or guarantee is made or furnished, or the note purchased by any person situated without this state, the transaction shall be deemed a loan made within this state, and such loan and the parties making it shall be subject to the provisions of this chapter. The buying or indorsing of notes or the furnishing of guarantee or security of amounts of \$300 or less for compensations shall be considered to be engaging in the business of making small loans, within the provisions of this chapter. Any person, firm, corporation, or association directly or indirectly engaged or seeking to engage in the business of negotiating or arranging loans or aiding the borrower or lender in procuring or making loans of \$300 or less, whether such loans are actually made by such persons or by other parties, shall be deemed to be engaged in the business of making small loans, and shall be subject to the provisions of this chapter.

4381. **Powers and duties of bank commissioner.** Any person, firm, corporation, or association applying for the same under oath and in the form prescribed by the bank commissioner and paying the sum of \$50 may, at the discretion of the bank commissioner, obtain a license for carrying on said business. The said license shall be issued by the bank commissioner and shall expire the 1st day of March next following the date of its issuance, but no abatement of said charges shall be made if licenses are issued for less than one year. Every such license shall be renewed annually on the 1st day of March in each year. No license shall be granted to any corporation unless and until such corporation shall, in writing and in due form, to be first approved by and filed by the bank commissioner, appoint an agent, resident of state of Utah, upon whom all judicial and other process or legal notice directed to such corporation may be served, and in the case of the death, removal from the state, or any legal disability or disqualification of any such agent, service of such process or notice may be made upon the bank commissioner. The said commissioner shall have the power to reject any application for license if he is satisfied that the character and general fitness of the applicant or applicants is not such as to command the confidence of the community and to warrant the conclusion that the business will be honestly transacted in accordance with the intent and purpose of this chapter. The said commissioner may revoke any license if the licensee shall violate any of the provisions of this chapter or fail to comply with any rule or regulation made by said commissioner under authority of § 4389. Whenever for any cause such license is

revoked said commissioner shall not issue another to said licensee until the expiration of at least one year from the date of revocation of such license and not at all if such licensee shall have been convicted of a violation of this chapter, under the provisions of § 4387. In addition to said license fee, said licensee shall pay for the examination by said bank commissioner, as hereinafter provided. Every applicant shall execute and file a bond to the state of Utah in the penal sum of \$2000, with the commissioner of banking, to be approved by him, for the faithful observance of all laws relating to such business. Said bond shall be executed by a surety company authorized by the laws of Utah to transact business within this state, and said bond shall be renewed and refilled annually not later than the 1st day of March in each year.

**4382. Examination. Bonding. Suspension of licenses. Agents.** The license shall state fully the name or names of the person or corporation, and of every member of the firm or association other than a corporation, authorized to do business hereunder, and the location of the office or place of business in which the business is to be conducted; and in the case of a corporation shall also state the date and place of its incorporation, the names of its directors for the period for which the license is issued, and the name and address of the agent as provided in § 4381. Such license shall be kept posted in a conspicuous place in the office where the business is transacted. No person, firm, corporation, or association so licensed shall transact or solicit business under any other name or at any other office or place of business than that named in the license. Not more than one office or place of business shall be maintained under the same license, and no loans or advancements shall be made at any other place than that designated in the license. But in case of a removal, the bank commissioner may, on application, indorse thereon a transfer to the new place of business, with the date of transfer, and from the time of such indorsement the new place so designated shall be deemed the place designated in the license.

**4383. Investigation. Costs.** The bank commissioner shall, either personally or by the bank examiners appointed under § 973, at least once a year, and oftener if he deems it advisable, investigate the business and affairs of every such licensee, and for that purpose shall have free access to the vaults, books, and papers thereof, and other sources of information with regard to the business of such licensee, and shall ascertain the condition of the business and whether it has been transacted in accordance with law and such rules and regulations as may be prescribed by the bank commissioner pursuant to § 4389. Said commissioner shall have such powers in respect to the persons, firms, corporations or associations amenable to this chapter as are given to him over the persons, firms, corporations, or associations named in chapter 6, Title 19 (§§ 971 to 1016). The cost of every such examination shall be paid by the licensee so examined and said commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction. The cost of such examination shall be \$10 per day for every day required to make examination. The money shall be turned in to the state treasury to the credit of the general fund. All

licensees shall annually, on or before the 20th day of December, submit a report to the bank commissioner in the form of a trial balance of their books at the close of business on the 30th day of November last preceding, and shall specify the different kinds of liabilities and the different kinds of assets, together with such other information as may be called for by said commissioner in accordance with a blank form to be furnished by him.

**4384. Interest rates. Statements. Records.** Every person, firm, corporation, or association acting under and abiding by the provisions of this chapter shall be allowed to charge on loans or advancements of \$300 or less 3 per cent per month or for a fraction of a month on such loans or advancements made by such persons, firms, corporations, or associations, or made in behalf of any person, firm, corporation, or association; *provided, however,* that said 3 per cent shall include, in the aggregate, all fees, charges, bonus, interest, expense, demands, or exactions of any nature whatsoever, except as hereinafter specified, and nothing contained in §§ 3321-3322 shall be construed so as to prevent the grant or permission hereby given to said licensees. No such licensee shall charge or receive of the borrower or borrowers, or any other person, on his, her, or their behalf, a greater rate of interest than 3 per cent per month. Nothing in this chapter contained shall be construed so as to allow or permit the splitting up of transactions for the loan of money into small amounts for the purpose of coming within or securing the benefits of or evading the provisions of this chapter. Such interest shall not be payable in advance and shall be computed on unpaid balances only. No charges, bonus, fees, expense, demands, or exactions of any nature whatsoever, other than interest as above provided, shall be made upon such loans or advancements except upon the actual foreclosure of the security or upon the entry of judgment. Every such licensee shall furnish the borrower at the time the loan is made a statement in the English language showing in clear and distinct terms the amount of the loan, and the date when loaned and when due, the person to whom the loan is made, the name of the lender, and the amount and rate of interest charged, and a copy of any contract entered into between borrower and lender or seller who sells on condition of buying back at a stipulated price. On the back of such statement there shall be printed in English a copy of § 4384. The lender shall give to the borrower a plain and complete receipt for all payments made on account of the loan at the time such payments are made. It shall be the duty of every such licensee doing business in any city of the first or the second class in this state to maintain in his place of business a book or other permanent record in which shall be legibly written in the English language, at the time of each loan, purchase, or sale, a record thereof containing:

1. The date of the transaction;
2. The name of the person or employe conducting the same;
3. The name, age, street and house number, and a general description of the dress, complexion, color of hair, and facial appearance of the person with whom the transaction is had;

4. The name and street and house number of the owner of the property bought or received in pledge;

5. The street and house number of the place from which the property bought or received in pledge was last removed;

6. A description of the property bought or received in pledge, which in the case of watches shall contain the name of the maker and the number of both the works and the case, and in the case of jewelry shall contain a description of all letters and marks inscribed thereon; *provided*, that when the article bought or received is furniture, or contents of any house or room actually inspected on the premises, a general record of the transaction shall be sufficient;

7. The price paid or the amount of the loan;

8. The names and the street and house numbers of all persons accompanying the borrower and witnessing the transaction;

9. The number of any pawn ticket issued thereon.

**4385. Assignments require wife's consent.** No assignment of or order for wages earned or to be earned in the future to secure a loan or advancement of \$300 or less shall be valid, when made by a married man, unless the written consent of his wife to the making thereof is attached thereto; *provided, however*, that where a married man is living separate and apart from his wife for a period of five months prior to the making of said assignment or order, then said consent shall not be required.

**4386. Pledges and conditional sales.** Except as hereinafter provided, every person, firm, corporation, or association engaged or seeking to engage in whole or in part in the business of loaning money on the security of pledges, deposits, conditional sales of personal property shall be subject to the provisions of this chapter. Every person, firm, corporation, or association engaged or seeking to engage in whole or in part in the business of buying personal property on condition that the seller have the privilege of repurchasing same in the future at a greater sum than the purchase price advanced by the buyer shall be subject to the provisions of this chapter, and the advancement of money upon a sale made under such conditions shall be construed as a loan or advancement within the meaning of the words "loan or advancement" as used in this chapter. In computing the price at which such article may be repurchased by the seller, all fees, bonuses, charges, interest, expense of sale or purchase required or exacted by the buyer shall be included.

**4387. Penalty.** The violation of any provision of this chapter shall be a misdemeanor, and if such violation be by a corporation, then such violation shall be a misdemeanor on the part of any person participating

therein as a representative or agent of said corporation. Every loan in connection with which such violation shall have occurred shall be absolutely null and void, and the borrower shall be entitled to recover from the lender any or all sums paid or returned on account of or in connection with such loan. Every licensee under this chapter, or his clerk or employe, shall be guilty, of a misdemeanor, who shall:

1. Fail to make an entry of any material matter in his book of record kept as provided for in §4384;
2. Make any false entry therein; or,
3. Falsify, obliterate, destroy, or remove from his place of business such book or record; or,
4. Refuse to allow those entitled to examine his records or books to inspect the same or furnish such reports as are by this chapter or law required; or,
5. Receive any property from any person under age of twenty-one years, any drunkard, any habitual user of narcotic drugs, any habitual criminal, any person in an intoxicated condition, any known thief or receiver of stolen property, or any known associate of such thief or receiver of stolen property, whether such person be acting in his own behalf or as the agent of another.

4388. **Where provisions do not apply.** This chapter shall not be held to apply to banks, duly licensed and bonded pawnbrokers, bankers, trust companies, savings banks, building and loan associations, or insurance companies, or to any transaction with banks, bankers, trust companies, savings banks, duly licensed and bonded pawnbrokers, building and loan associations, or insurance companies, nor to any loan made upon real estate security unless said banks, duly licensed and bonded pawnbrokers, bankers, trust companies, savings banks, building and loan associations, or insurance companies shall loan upon the security of salaries either actually earned or to be earned. In case such banks, pawnbrokers, bankers, trust companies, savings banks, building and loan associations, or insurance companies shall procure a license under this chapter, no greater rate of interest shall be charged on loans or advancements of any amount than is allowed by law other than this chapter, except on loans or advancements made on the security of salaries earned or to be earned.

4389. **Bank commissioner to make rules and regulations for conduct of business.** The enforcement of this chapter shall be entrusted to the bank commissioner, and he is hereby authorized and empowered to make rules and regulations necessary in his judgment for the conduct of such business and the enforcement of this chapter in addition thereto and not inconsistent herewith; *provided*, that nothing contained in this chapter shall be construed to prevent any person from lending money under the provisions of § 3321.

**FEDERAL RESERVE SYSTEM**

Session Laws of Utah, 1919, Chapter 19.

(Passed February 24, 1919. Approved February 26, 1919. In effect February 26, 1919.)

**MEMBERS OF FEDERAL RESERVE SYSTEM**

An Act authorizing any bank or trust company incorporated under the laws of this State to become a member of a Federal Reserve System and in such event to be subject to all the provisions of the Act of Congress known as the Federal Reserve Act; allowing any such bank or trust company to comply with the reserve requirements of such Act in lieu of those established by the laws of this State; and permitting the Bank Commissioner to accept the examinations and audits made pursuant to such Act in lieu of those required by the laws of this State.

*Be it enacted by the Legislature of the State of Utah:*

Section 1. **Authorization.** That any bank or trust company incorporated under the laws of this State shall have the power to subscribe to the capital stock and become a member of a Federal Reserve System created and organized under an Act of Congress of the United States and known as the Federal Reserve Act.

Sec. 2. **Subject to provisions and regulations of Board.** Any bank or trust company, incorporated under the laws of this State, which shall become a member of a Federal Reserve System, shall be subject to all the provisions of the Federal Reserve Act and its amendments, and to the regulations of the Federal Reserve Board applicable to such bank or trust company, and shall have all the powers and assume all the liabilities conferred and imposed by said Act.

Sec. 3. **Maintenance of reserves—regulated.** Any such bank or trust company shall comply with the reserve requirements of the Federal Reserve Act and its amendments, and the compliance of such bank or trust company therewith shall be in lieu of, and shall relieve such bank or trust company from compliance with the provisions of the laws of this State relating to the **maintenance of reserves.**

Sec. 4. **Examinations.** Any such bank or trust company shall be subject to the examinations required under the terms of the Federal Reserve Act, and the Bank Commissioner may, in his discretion, accept such examinations in lieu of the examinations required under the laws of this State.

Sec. 5. All Acts and parts of Acts inconsistent herewith are hereby repealed.

Sec. 6. This Act shall take effect upon approval.

Approved February 26, 1919.

**LOAN, TRUST, AND GUARANTY ASSOCIATIONS**

Compiled Laws of Utah, 1917, Title 19, Chapter 12.

1200. (423.) **Manner of organization.** Loan, trust, and guaranty associations may be incorporated under the provisions of chap. 1 of this title (§§ 860-899), respecting corporations for pecuniary profit; *provided, however*, that the secretary of state shall not issue a certificate of incorporation to any such association, authorizing it to do business in this state, until its articles of association or agreement shall have been approved by the bank commissioner; and all the rights, privileges, and powers, and all the duties and obligations of such corporations, and the officers and stockholders thereof, shall be as provided in said chapter and in chapter 2 of this title (§§ 900-919), respecting assessments; except as in this chapter otherwise provided.

1201. (424.) **Duties and powers.** Such corporations shall have power:

1. To make insurance of every kind pertaining to or connected with titles to real estate;

2. To act as assignees, agents, receivers, guardians of the estates of minors and incompetent persons, executors and administrators, and to execute trusts of every description not inconsistent with law;

3. To buy, sell, or mortgage real estate or personal property, to loan money on real estate security or otherwise, to sell and assign mortgages and endorse negotiable instruments, and to make, execute, and deliver bonds, promissory notes, and bills of exchange;

4. To receive deposits of money and to pay an agreed rate of interest on the same; provided, that if any loan, trust, and guaranty association organized or existing under the laws of the State shall receive commercial or savings deposits, the liability of the stock-holders of such corporation, and the restrictions concerning the lending of its funds, shall be as expressed and limited in the chapter of this title concerning commercial or savings banking corporations respectively; provided further, that before engaging in the business of receiving either commercial or savings deposits and paying an agreed rate of interest on the same, any loan, trust or guaranty association organized and existing under the laws of this or any other state shall first secure from the State Bank Commissioner a permit.

Approved February 21, 1923.

1202. (425.) **May act as sole surety. Approval. Certificate of authority.** Nothing in this chapter shall be so construed as to dispense with the approval of such loan, trust, and guaranty associations as sole security by such court, officer, corporation, or individual, as is or may be by law re-



quired to approve such security; *provided, however,* that upon production of proof to the bank commissioner by such company, organized under the provisions of this chapter, that it possesses the qualifications by this chapter required, and that it has complied therewith, he shall issue to such company his certificate that it is authorized for the ensuing year to become and be accepted as sole surety on all bonds, undertakings, and obligations provided for in this chapter; and that such certificate during the period for which it is issued, unless the same shall be canceled as hereinafter provided, shall be accepted, by all the courts or officers authorized to take, or before whom sureties are required to justify upon exception to said company's sufficiency, as a complete justification; *provided, further,* that the bank commissioner at any time after the issuance of such certificate and during the period for which such certificate is issued, when it shall appear to him that any such company has become insolvent and is not entitled to do business as such, shall cancel such certificate and refuse further to allow such company to transact such business.

1203. (426.) **Capital held as security.** Whenever any such corporation shall accept an appointment as assignee, receiver, guardian, executor, or administrator, or be directed to execute any trust, the capital of the said corporation shall be held as security for the faithful performance of such duties and be held liable for any default whatever, and no bond shall be required of it for the faithful performance of such trust.

1204. (427.) **Oath of corporation.** The oath or affidavit of any officer of such corporation for and in its behalf shall be deemed to be the oath or affidavit of such corporation.

1205. (428.) **Paid-up capital.** The secretary of state shall not issue a certificate of incorporation to any loan, trust, and guaranty association until it shall appear by affidavit of at least three of the incorporators that such corporation has a paid-up cash capital of not less than \$25,000, and, in cities of the first class, of not less than \$100,000.

1206. (429.) **Investment of capital.** Any corporation organized or existing under this chapter shall keep its capital stock in money on hand, or on deposit in solvent banks, or invested in the bonds of the United States or of this state, or of any county, municipality, or school district thereof, or in first mortgages on real estate situated in Utah, the amount invested in any mortgage not to exceed 50 per cent of the value of the land so mortgaged.

1207. (430.) **Loan, trust and guaranty associations included.** Loan, trust, and guaranty associations shall be bound by the provisions of law governing banks as to the times and manner of making reports to the bank commissioner, as to the penalty for failure to make any such report, and as to suspension and liquidation.

## ORGANIZATION AND SUPERVISION OF BUILDING AND LOAN ASSOCIATIONS

Compiled Laws of Utah, 1917, Title 19, Chapter 9.

1100. (392.) **Incorporation. Approval of articles.** Building and loan associations organized for the purpose of raising a fund by the collection of dues or stated payments from its members, to be loaned among its members, may be incorporated under the provisions of chap. 1 of this title, respecting corporations for pecuniary profit; *provided, however,* that the secretary of state shall not issue a certificate of incorporation to any such association, authorizing it to do business in this state, until its articles of association or agreement shall have been approved by the bank commissioner; and all the rights, privileges, and powers, and all the duties and obligations of such corporations, and the officers and stockholders thereof, shall be as provided in said chapter, except as in this chapter otherwise provided. In addition to the other facts required to be stated, the articles of incorporation of such company shall state the terms and plans of becoming and continuing a member, and of withdrawal, the plans of making loans, distributing profits, equalizing losses, providing for expenses, and of providing a fund with which to pay losses, and the maximum compensation of officers.

1100x. **Commissioner has discretionary powers when.** The bank commissioner shall have discretionary power in the approval of articles of incorporation or authority for such associations and may refuse to grant such approval when the plan of operation outlined in the articles of incorporation and by-laws submitted for approval, does not comply with the statutes governing associations.

1101. (393.) **Capital.** The capital named in the articles of incorporation shall be taken to mean the authorized capital, and the association may commence business when 5 per cent thereof is subscribed and the other requirements of the law have been complied with.

1102. (394.) **Powers.** Any such corporation shall have power, subject to the terms and conditions contained in the articles of incorporation and by-laws, to issue stock to its members; to assess and collect from its members reasonable membership fees, dues, premiums, and fines; to permit its members to withdraw any or all of their stock deposits upon equitable terms; to hold and convey such real and personal property as shall be necessary for its accommodation and the transaction of its business, such as shall be mortgaged in good faith by way of security for debts duly contracted in the course of its dealings, such as it shall purchase at sales under judgments, decrees, or mortgages held by it, or shall purchase to secure debts due to it; to make loans to its members upon ample real estate security, unencumbered except by prior loans from the association, or upon

the stock of such association to the extent of its withdrawal value; to make annual or semi-annual distributions of its earnings, and to do all other things that may be necessary to effect its purposes and conduct its authorized business.

1103. (395.) **Bonds of secretary and treasurer.** The treasurer and secretary, before entering upon their duties, shall give good and sufficient bonds for the faithful performance of the same and for the safe keeping and proper application of all money or property coming into their hands, and the same shall be approved by the board of directors. All such bonds shall be increased or additional sureties required by the board of directors when the same becomes necessary to protect the interests of the association or its members, but no directors shall be accepted as a surety on such bonds, and the directors shall be individually liable for loss to the association or members caused by their failure to comply with the provisions of this section.

1104. (396.) **Payments. Withdrawals.** A borrower may repay a loan at any time upon duly complying with the provisions of the charter and by-laws in relation to the payment of loans; and any stockholder wishing to withdraw from the corporation shall have power to do so by giving thirty days' notice of his intention to withdraw, when he shall be entitled to receive the amount paid in by him and such interest thereon, or such proportion of the profits thereon, less all fines and other charges as the by-laws may determine; *provided*, that at no time shall more than one-half of the funds of the treasury of the corporation be applicable to the demands of withdrawing stockholders without the consent of the board of directors, and that no stockholder shall be entitled to withdraw whose stock is held by the association for security. Upon the death of a stockholder, his legal representative shall be entitled to receive the full amount paid in by him on all shares not borrowed upon or pledged to the association as collateral security and legal interest thereon after deducting all charges that may be due on the stock; but no fines shall be charged to a deceased member's account from and after his decease, unless the legal representative of such decedent assume the future payment of the dues.

1105 (398.) **Annual statement—publication.** On or before the 1st day of March of each year, every building and loan association doing business within this state, whether domestic or foreign, shall cause to be filed in the office of the bank commissioner a statement of its affairs, as is required in 1109, and shall cause a copy thereof, duly certified by the bank commissioner, to be published at least one time in some newspaper in this State having a general circulation therein, such publication to be completed on or before the 1st day of May, and proof thereof filed in the office of the bank commissioner. The fee for filing and certifying each annual statement shall be seven dollars (\$7.00). The bank commissioner shall have power to call for special reports from building and loan associations, domestic or foreign, whenever he deems it necessary.

1106. (399.) **Examination, refusal to submit to.** If any domestic building and loan association shall refuse to submit to an examination by the bank commissioner or his agent, the bank commissioner shall advise the attorney-general thereof, who shall proceed to wind up its affairs; and if any foreign association shall refuse to submit to such examination, the bank commissioner shall so advise the secretary of state, who shall thereupon revoke its certificate of authority to do business in this state.

1107. (400.) **Illegal methods—commissioner to act.** When in the opinion of the bank commissioner, any such corporation is conducting its business illegally, or in violation of its articles of incorporation or by-laws, or in practicing deception upon its members or the public, or in pursuing a plan that is injurious to the interests of such members, or if he is satisfied that its affairs are in an unsafe condition, he shall notify its directors or managers, and if it shall not immediately amend its course or put its affairs upon a safe basis, he shall, in the case of a domestic corporation proceed under the provisions relating to the suspension and liquidation of banks, and in case of a foreign corporation, he shall advise the secretary of state who shall thereupon revoke its certificate of authority to do business in this state.

1108. (402.) **Agents acting without authority. Liability.** Any officer or agent of any building and loan association who shall do or attempt to do any business for any such association, which does not hold a certificate of authority therefor as in this chapter provided, or which shall fail or refuse to file with the bank commissioner the annual statement herein required, shall be guilty of a misdemeanor for each and every offense, and shall be personally liable on any and all contracts made in this state by him for and in behalf of such company during the time that it shall remain so in default.

---

## CHAPTER 23.

Senate Bill No. 18.

Compiled Laws, 1917, p. 296.

(Passed February 8, 1921. Approved February 16, 1921. In effect February 16, 1921.)

**SUSPENSION AND LIQUIDATION OF BANKS**

**An Act relating to the suspension and liquidation of banks, and repealing Section 1007, Compiled Laws of Utah, 1917, except as to pending proceedings.**

*Be it enacted by the Legislature of the State of Utah:*

Section 1. **Bank commissioner may take possession—when.** The bank commissioner may forthwith take possession of the business and property of any bank to which this Act is applicable, whenever it shall appear that such bank:

1. Has violated its charter or any law applicable thereto;
2. Is conducting its business in an unauthorized or unsafe manner;
3. Is in an unsound or unsafe condition to transact its business;
4. Has an impairment of its capital for a period of ninety days;
5. Has refused to pay its depositors in accordance with the terms on which such deposits were received;
6. Has become otherwise insolvent;
7. Has neglected or refused to comply with the terms of a duly and legally authorized order issued by the bank commissioner;
8. Has refused, upon proper demand, to submit its records and affairs for inspection to an examiner of the banking department; or
9. Its officers have refused to be examined upon oath regarding its affairs.

Such bank may with the consent of the bank commissioner resume business upon such conditions as may be approved by him.

Sec. 2. **Notice to be given.** Upon taking possession of the property and business of any such bank, the bank commissioner shall forthwith give written notice of such fact to all banks, companies, associations and individuals holding or in possession of any assets of such bank. The bank commissioner shall, within a reasonable time and not before thirty days, cause notice to be given by advertisement in such newspapers as he may direct weekly for four consecutive weeks, calling on all persons who may have claims against such bank to present the same to the bank commissioner, and to make legal proof thereof at a place and within a time not later

than the last day therein specified. The bank commissioner shall mail a similar notice to all persons whose names appear as creditors upon the books of said bank.

**Sec. 3. No lien on seized bank.** No bank, trust company, corporation, firm, association or individual knowing that the bank commissioner has taken possession of such bank, shall have a lien or charge for any payment advanced or any clearance thereafter made, or liability thereafter incurred against any of the assets of the bank of whose property and business the bank commissioner shall have taken possession.

**Sec. 4. Rejected claim—allowance and payment.** If the bank commissioner doubts the justice and validity of any claim, he may reject the same and serve notice of such rejection upon the claimant, either by mail or personally, an affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed in his office. An action upon a claim so rejected may be brought within six months after such service. Claims presented and allowed after the expiration of the time fixed in the notice to creditors, shall be entitled to be paid the amount of all prior dividends thereon if there be funds sufficient therefor and share in the distribution of the remaining assets in the hands of the bank commissioner equitably applicable thereto.

**Sec. 5. Inventory—filing lists of claims—lists of depositors or creditors—report.** Upon taking possession of the property and assets of such bank the bank commissioner shall make an inventory of the assets of such bank in duplicate, one copy to be filed in the office of the bank commissioner, one in the office of the clerk of the county in which the office of such bank was located. Upon the expiration of the time fixed for the presentation of claims, the bank commissioner shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, of which one copy shall be filed in the office of the bank commissioner, one in the office of the clerk of the county in which the office of such bank was located. And the bank commissioner shall in like manner make and file supplemental lists showing all claims presented subsequent to the filing of the first list, such supplemental lists to be filed at least fifteen days before the declaration of any dividend, and in any event such supplemental lists shall be filed at intervals of not exceeding six months. The bank commissioner shall cause to be entered in a book prepared for that purpose, the names of all depositors and other creditors of such bank, together with the amount due each as shown by the books of such bank, said book to be one of the permanent records of such liquidation. At the time of the order for final distribution of any such bank, the bank commissioner shall make a detailed report in duplicate of its liquidation, showing the disposition of each asset and acquired asset, one copy to be filed in the office of the bank commissioner, one in the office of the clerk of the county in which such bank was located. Such report, inventory and list of claims shall be open at all reasonable times for inspection.

Sec. 6. **Deputy examiners.** The bank commissioner may under his hands and official seal appoint one or more special deputy examiners of banks as agent or agents to assist him in the duty of liquidation and distribution, a certificate of such appointment to be filed in the office of the bank commissioner and a certified copy in the office of the clerk of the county in which the office of such bank was located. The bank commissioner shall require from such agent or agents such surety for the faithful discharge of their duties as he may deem proper. All bonds given shall be deposited with the bank commissioner and kept in his office.

Sec. 7. Upon taking possession of the property and business of such bank, the bank commissioner is authorized to collect money due to such bank, and to do such other acts as are necessary to preserve its assets and business, and shall proceed to liquidate the affairs thereof, as hereinafter provided. The bank commissioner shall collect all debts due and claims belonging to it, and upon the order of the district court in and for the county in which the office of such bank is located, may sell or compound all bad or doubtful debts, and on like order may sell the real estate and personal property of such bank, on such terms as the court shall direct. The bank commissioner shall give notice to such bank of the time and place of making application to said court for such order. The bank commissioner upon the terms of sale or compromise directed by the court, shall execute and deliver to the purchaser of such real and personal property such deeds or instruments as shall be necessary to evidence the passing of the title; and if said real estate is situated outside the county in which the office of the bank was located, a certified copy of such order authorizing and ratifying said sale shall be filed in the office of the recorder of the county within which said property is situated; and may upon suspension of a bank enforce the individual liability of stockholders and proceed to collect same.

Sec. 8. **Deposit of moneys—preferred claim.** The moneys collected in process of such liquidation by the bank commissioner shall be from time to time deposited in one or more banks organized under the laws of this state, subject to his order as herein provided. In case of the suspension or insolvency of such depository, such deposits shall be preferred before all other deposits.

Sec. 9. The expenses incurred by the bank commissioner during possession or in course of the liquidation of any bank in accordance with the provisions of this Act, shall include the expenses of deputies or assistants, clerks and examiners employed in such possession or liquidation together with reasonable attorney fees for counsel employed by said bank commissioner in the course of such liquidation. Such compensation of counsel, deputies, assistants, clerks and examiners in the liquidation of any such bank, and all expenses of supervision and liquidation shall be fixed by the bank commissioner, subject to the approval of the district court of the county in which the office of such bank was located, on notice to such bank. The expense of

such liquidation shall be paid out of the property of such bank in the hands of said bank commissioner and such expenses shall be a valid charge against the property in the hands of said bank commissioner and shall be paid first in the order of priority; provided, however, that no such expense shall be paid out of the property of such bank until an account of such expense shall have been filed with and approved by the district court of the county in which such bank is located. No preferences, or priorities shall be given to any claim except such as are ordinarily incurred in supervising and liquidating the affairs of such bank.

Sec. 10. At any time after the expiration of the date fixed for the presentation of claims, the bank commissioner may, out of the funds, remaining in his hands after the payment of expenses, declare one or more ratable dividends, and after the expiration of one year from the first publication of notice to creditors, he may declare a final dividend, such dividends to be paid to such persons and in such amounts and upon such notice as may be directed by the district court of the county in which the office of such bank was located. Dividends due to stockholders on claims as depositors or otherwise, to the extent of the individual liability of such stockholders shall be withheld by the bank commissioner until it is ascertained that it will not be necessary to enforce their individual stock liability. The court shall make proper provision for unproved and unclaimed deposits.

Sec. 11. **Objection to claims—hearing.** Objection to any claims not rejected by the bank commissioner may be made by any party interested by filing a copy of such objection with the bank commissioner who shall present the same to the district court of the county in which the office of such bank was located, upon written notice to claimant and to the party filing the same, said notice setting forth the time and place of the presentation. The court upon return day of said notice shall hear the objections raised to said claim, or refer the determination of said objections to a referee for report, or upon demand of either the bank commissioner or the party filing the objections may direct that the issues be tried before a jury.

Sec. 12. **Injunction proceedings by aggrieved bank.** Whenever any such bank of whose property and business the bank commissioner has taken possession, as aforesaid, deemes itself aggrieved thereby, it may at any time within thirty days after taking such possession apply to the district court of the county in which the office of such bank was located, to enjoin further proceedings in liquidation, and said court, after citing the bank commissioner to show cause why further proceedings should not be enjoined and hearing the allegation and proofs of the parties and determining facts, may dismiss such application or enjoin the bank commissioner from further proceedings and direct him to surrender such business and property to such person, partnership, corporation, company, society or association.



**Sec. 13. No receiver—exception.** No receiver shall be appointed by any court, nor shall any deed of assignment for the benefit of creditors be filed in any district court within this state for any bank except upon notice to the bank commissioner, unless in case of urgent necessity it becomes in the judgment of the court necessary so to do in order to preserve the assets of such bank. The bank commissioner may within five days after the service of such notice upon him take possession of such bank, in which case no further proceedings shall be had upon such application for the appointment of receiver or under such deed of assignment, or, if a receiver has been appointed or such assignee shall have entered upon the administration of his trust, such appointment shall be vacated or such assignee shall be removed upon application of the bank commissioner to the proper court therefor, and the bank commissioner shall proceed in all such cases to administer the assets of such bank, as herein provided.

**Sec. 14. Stockholders' meeting to wind up affairs.** Whenever the bank commissioner shall have paid to each depositor and creditor of such bank, not including stockholders, whose claim or claims as such depositor or creditor shall have been duly proved and allowed, the full amount of such claims, and shall have made proper provisions for unclaimed or unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the bank commissioner shall call a meeting of the stockholders of such bank, by giving notice thereof for four consecutive weeks in one or more newspapers published in the county wherein the office of such bank was located. At such meeting the stockholders shall determine whether the bank commissioner shall continue to administer its assets and wind up the affairs of such bank, or whether an agent or agents shall be elected for that purpose; and in so determining the said stockholders shall vote by ballot in person, or by proxy each share entitling the holder to one vote and the majority of the stock shall be necessary to a determination.

**Sec. 15. Liquidation by bank commissioner or by agent.** In case it is determined to continue the liquidation under the bank commissioner, he shall complete the liquidation of the affairs of such bank, and after paying the expenses thereof shall distribute the proceeds among the stockholders in proportion to the several holdings of stock, in such manner and upon such notice as may be directed by the district court in the county in which the office of such bank was located. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall file with the bank commissioner a bond to the state of Utah in such amount and with such sureties as shall be approved by the bank commissioner for the faithful performance of all the duties of his or their trust, and thereupon the bank commissioner shall transfer to such agent or agents all the undivided or uncollected or other assets of such bank then remaining in his hands; and upon such transfer and delivery the said

bank commissioner shall be discharged from all further liability to such bank and its creditors.

Sec. 16. **Agent to account—expenses submitted to court.** Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of such bank as herein provided in the case of distribution by the bank commissioner, except that the expenses thereof shall be subject to the direction and control of the district court of the county in which the office of such bank was located.

Sec. 17. **Election of agent's successor.** In case of death or removal or refusal to act of any such agent, or agents, the stockholders may elect a successor as hereinbefore provided who shall have the same powers and be subject to the same liabilities and duties as the agent, or agents originally elected.

Sec. 18. **Unclaimed dividends and deposits go to state—payment to persons entitled thereto.** Dividends and unclaimed deposits remaining in the hands of the bank commissioner for six months after the order for final distribution shall be by him deposited with the treasurer of state who shall hold such funds as custodian, subject to the order of the bank commissioner. The bank commissioner may pay over the moneys so held by the treasurer of state to the persons respectively entitled thereto, upon being furnished satisfactory evidence of their right to the same. In case of doubt or conflicting claims he may apply to the district court of the county in which the office of such bank was located for an order authorizing and directing the payment thereof. All unclaimed deposits and uncalled for dividends for which no claims have been made within a period of five years, after the order of final distribution, shall be paid into the state treasury upon the warrant of the auditor of state.

Sec. 19. **Deposit of records of liquidated bank.** All books, papers and records of a bank which has been finally liquidated by the bank commissioner, shall be deposited by the bank commissioner in the office of the clerk of courts for the county in which the office of such bank was located, such books, papers and records to be held by the clerk of courts of such county subject to the order of the district court for such county.

Sec. 20. **Section repealed—pending rights preserved.** Section 1007, Compiled Laws of Utah, 1917, and all other Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed, provided, however, this repeal and this Act shall not affect actions, receiverships, or proceedings and rights and liabilities created or existing, commenced and pending prior to the passage of this Act.

Sec. 21. This Act shall take effect upon approval.

Approved February 16, 1921.







